



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,209	01/20/2004	Hiroyuki Kobayashi	P23857	7753
7055 7590 02/12/2007 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			EXAMINER SMITH, PHILIP ROBERT	
			ART UNIT 3739	PAPER NUMBER
			NOTIFICATION DATE 02/12/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com
pto@gbpatent.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/759,209

Applicant(s)

KOBAYASHI, HIROYUKI

Examiner

Philip R. Smith

Art Unit

3739

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

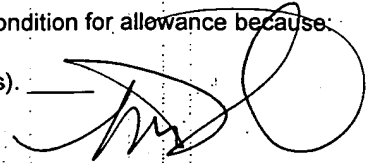
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1 and 3-5.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____


PHILIP R. SMITH
EXAMINER

Continuation of 3. NOTE: No amendments to the claims were filed. A new title was submitted, but this amendment (otherwise sufficient to overcome the outstanding objection to the specification) will not be entered due to a typing error.

Continuation of 11. does NOT place the application in condition for allowance because: the rejections of claims 1,3-5 are maintained.

Applicant contends that "the Final Official Action acknowledges beginning at page 4 that FURUSAWA does not disclose that a 'calculating section ("PC 14") calculates a first intensity coefficient'." On the contrary, paragraph [05a] in the Final action states that "[Furusawa does not disclose that] the calculating section ("PC 14") calculates a first intensity coefficient ("instruction") according to a first operational expression." As noted in paragraph [04e], respectively, Furusawa discloses a calculating section ("PC 14") and a first intensity coefficient ("instruction from, for example, PC14"). As noted in paragraph [05a], Furusawa does not disclose a first operational expression. In other words, Furusawa discloses the calculation of luminance values for RGB versus fluorescent light (see paragraph [04c] of the Final), and the subsequent control of respective light sources apparatuses (see paragraph [04e] of the Final); but does not disclose the particular mechanism of control, i.e. a "first operational expression." The obviousness rejection in the Final action includes a teaching from the Ozawa reference in order to show an "operational expression" which controls emitted light according to the particular mechanism claimed (see paragraphs [6] and [7]).

Applicant further contends that "[t]he Final Official Action is incorrect, and FURUSAWA does not anywhere disclose or suggest features related to a 'second intensity coefficient' separable and distinct from features related to a 'first intensity coefficient'." On the contrary, as stated in paragraph [04d] of the Final, the light controller disclosed by Furusawa "adjusts...light amounts of illuminating light and excitation light." The light controller disclosed by Furusawa controls both a "white light source 22" and a "UV light source 24," thus requiring at least two signals.

Applicant lastly contends that "a person of ordinary skill in the art could obtain a controller that controls the reference light intensity in the fluorescent endoscope system, as well as a controller that controls the excitation light intensity with the same coefficient as for the reference light." The rejection is maintained because Furusawa in view of Ozawa discloses an apparatus that emits both reference and excitation light (as disclosed by Furusawa) such that peak brightness of the observed image is maintained (as taught by Ozawa). A person of ordinary skill may apply the teachings of Ozawa to excitation light just as well as to reference light. The required mechanism is identical and the advantage of uniform brightness is still quite clear.